IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

Crl.MC.No. 1274 of 2007()

SC.314/2006 of ADDL. SESSIONS COURT (ADHOC)-II, KALPETTA
CRIME NO.43/2004 OF SULTHAN BATTERY POLICE

.....

PETITIONER: ACCUSED NO.3

SIDDIQUE, S/O.ISMAIL, AGED 32,
VADASSERRY HOUSE, PURANG P.O.,
KANHIRAMUKKU, PONNANI.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS/COMPLAINANT:

STATE OF KERALA, REPRESENTED BY THE
CIRCLE INSPECTOR OF EXCISE, EXCISE ENFORCEMENT
AND ANTI HARCOTIC SPECIAL SQUAD, WYNAD THROUGH
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1274 of 2007

Dated this the 28th day of May 2007

O R D E R

The petitioner faces indictment in a prosecution under the provisions of the Kerala Abkari Act. The alleged incident has taken place on 24/5/2004. Accused 1 and 2 were allegedly found transporting large quantity of illicit spirit in a vehicle belonging to the petitioner/third accused. Investigation is complete. Charge sheet has already been filed. The petitioner was initially not available for trial. This obliged the court to split up the case and to commit the co-accused for trial. Consequent to the subsequent apprehension by the petitioner, his case has also been committed to the court of Session. Charges have been framed by the court of Session, it is submitted. The matter stands listed for trial to 06/06/2007. It is at this stage that the petitioner has come to this court during the vacation on 19/04/2007 for quashing the proceedings.

2. It is stated that the court has framed the charges against the petitioner. Obviously this must have been done after hearing the petitioner. The order framing charge is not challenged. The contention is that the petitioner has nothing to do with the vehicle on the relevant date and therefore the petitioner is entitled for quashing of proceedings against him.

3. This certainly is a contention which could have been raised at the time of framing charges. That has not been done. Instead, at the eleventh hour, the petitioner has come rushing to this court and I find absolutely no justification to invoke the powers under Section 482 Cr.P.C and quashing the proceedings. Obviously the charge in S.C.No.71/06 against the co-accused and S.C.No.314/06 against the petitioner are being consolidated and joint trial is being held. The petitioner can, of course, make a request to that effect.

4. At any rate, I am satisfied that this is not a fit case where powers under Section 482 Cr.P.C can or ought to be invoked. In the facts and circumstances of this case where the matter admittedly stands listed for trial to 06/06/2007, the petitioner must of course take part in the proceedings and raise all his contentions.

5. This Criminal Miscellaneous Case is, in these circumstances, dismissed with the above observations.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007